

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

UNITED STATES OF AMERICA

Plaintiffs,

v.

REALITY LEIGH WINNER

Defendant.

1:17-CR-0034 (BKE)

* * * * *

**NOTICE OF INTENT TO FILE APPEAL/OBJECTIONS TO MAGISTRATE JUDGE'S
RULINGS ON DEFENDANT'S RULE 17 SUBPOENAS AND UNOPPOSED MOTION
TO SET DEADLINE REGARDING SAME**

NOW INTO COURT, through undersigned counsel, comes Defendant Reality Leigh Winner ("Ms. Winner" or the "Defendant") who files the instant Notice, evidencing her intent to object to, and seek an appeal from, the decision by U.S. Magistrate Judge Brian Epps in connection with her proposed subpoenas to various third parties pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure.¹ Separately, with no opposition from the Government, Ms. Winner seeks to fix the time period for filing the aforementioned appeal/objections to 14 days from the date the transcript of the April 23rd hearing is available, pursuant to Rule 72 of the Federal Rules of Civil Procedure.

Rule 72(a) of the Federal Rules of Civil Procedure allows for a party to seek an appeal and/or file objections to a magistrate judge's ruling 14 days after being served a copy of the decision at issue.² This rule has been adopted by the Local Rules of this Court, and it also

¹ See Doc. No. 274.

² FED. R. CIV. PROC. 72(a).

applies to criminal matters like this one.³ As the Court is aware, on April 23, 2018, the parties held a hearing before Magistrate Judge Epps in connection with Ms. Winner's Rule 17(c) subpoenas.⁴ Among other things, at that hearing, Ms. Winner presented legal argument and evidence supporting her request for the proposed subpoenas under *United States v. Nixon*, 418 U.S. 683 (1974) and its progeny.⁵ Given that the evidence submitted, including the live testimony presented, is crucial to understanding precisely why, in the defense's view, the subpoenas meet the *Nixon* standard (including the requirement of specificity -- which was the subject of the April 23rd hearing), it is imperative to include such evidence and testimony as part of the appeal/objections to the magistrate judge's decision. Accordingly, Ms. Winner requests that her objections/appeal to the magistrate judge's decision be due 14 days from when the transcript of the April 23rd hearing becomes available (as opposed to 14 days from when the magistrate judge's decision was rendered). The Defendant has contacted the Government who has no opposition to this request.

WHEREFORE, for the reasons stated above, the Defendant, Reality Leigh Winner, respectfully requests that this Court (a) grant her request to file any objections/appeal to the magistrate judge's decision⁶ on her Rule 17(c) subpoenas 14 days from when the transcript becomes available; and (b) grant such additional relief as the Court deems warranted.

³ See L. Civ. R. 72.2; L. Cr. R. 1.1 (noting that local criminal rules are supplemental and specifically referencing L. Civ. R. 72 as being applicable).

⁴ See Doc. No. 269.

⁵ See *id.*; see also Doc. No. 263 (Notice of Filing of Defendant's Memorandum of Law Regarding the Specificity Requirement and Discretion of the Court Under Rule 17(c) in Advance of April 23, 2018 Proceedings).

⁶ Doc. No. 274.

Respectfully submitted,

/s/ Joe. D. Whitley

Joe D. Whitley (GA Bar No. 756150)
Admitted *Pro Hac Vice*
Brett A. Switzer (GA Bar No. 554141)
**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
3414 Peachtree Rd., NE Suite 1600
Atlanta, GA 30326
(404) 577-6000
JWhitley@bakerdonelson.com
BSwitzer@bakerdonelson.com

Matthew S. Chester (LA Bar No. 36411)
Admitted *Pro Hac Vice*
**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
201 St. Charles Ave., Suite 3600
New Orleans, LA 70170
(504) 566-5200
MChester@bakerdonelson.com

Katherine C. Mannino (LA Bar No. 35081)
Admitted *Pro Hac Vice*
**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
450 Laurel Street
Baton Rouge, LA 70825
(225) 381-7027
KCicardo@bakerdonelson.com

**COUNSEL FOR DEFENDANT
REALITY LEIGH WINNER**

John C. Bell, Jr. (GA Bar No. 048600)
Titus T. Nichols (GA Bar No. 870662)
BELL & BRIGHAM
PO Box 1547
Augusta, GA 30903-1547
(706) 722-2014
John@bellbrigham.com
Titus@bellbrigham.com

Thomas H. Barnard (AZ Bar No. 020982)
Admitted *Pro Hac Vice*
**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
100 Light Street.
Baltimore, MD 21202
(410) 685-1120
TBarnard@bakerdonelson.com

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2018, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to counsel of record for all parties.

/s/ Joe D. Whitley
Joe. D. Whitley, Esq.